

UNITED STATES DISTRICT COURT
FOR MIDDLE DISTRICT OF PENNSYLVANIA

GARY RHINES

Plaintiff,

V

UNITED STATES OF AMERICA

Civil NO.

COMPLAINT

Federal Tort claim ACT

FILED
SCRANTON

MAY 20 2020

PER 
DEPUTY CLERK

JURISDICTION & VENUE

This is a civil action authorized by the federal Tort claim Act, 28 U.S.C. § 2672, under authority by 28 C.F.R. § 543.30. and A claim of Negligence under (FTCA), Pursuant to 28 U.S.C § 2671

THE UNITED STATES DISTRICT COURT, for MIDDLE DISTRICT OF PENNSYLVANIA, SCRANTON PA 18501, is an appropriate venue under 28 U.S.C Section § 1331 and 28 U.S.C. § 1346(b).

Plaintiff, Gary RHINES, Pro-se, in a former Inmate at FCI ALLENWOOD the time of incident. Plaintiff is currently incarcerated at SCI Coal-Township, 1 KELLEY Drive, Coal Township PA 17866.

1. The court has jurisdiction over the plaintiff's claims of violation of federal constitutional rights under 28 U.S.C. §1331 and 28 U.S.C. §1346(b). And 28 U.S.C. § 2672 and 28 U.S.C. § 2671. A claim of negligence
2. The plaintiff, Gary Rhines was incarcerated at FCI Allenwood, P.O. Box 2000, White Deer, PA 17887 during events described in this complaint.
3. Defendants, Dr. David Ball, contractor is being sued in their individual capacity.
4. Defendant, MD Carvajal, regional Director is being sued in their individual and official capacities in charge of Regional Appeals.
5. Defendant, Ian Connors, Administrator National Inmate Appeals is being sued in their individual and official capacities.
6. Defendant Dr. Cullen is being sued in their individual and official capacities, he is (FCI Allenwood) in house doctor.
7. Defendant, Beth Zalna PA, is being sued in their individual and official capacities.
8. Defendant, Mr. Parkin, Health Services Administrator, is overseer of all PA's in health services is being sued in their individual and official capacities.
9. Defendant, Former Warden, Captain S. Spaulding was in charge of all administrative remedies is being sued in their individual and official capacities.

FACTS

Plaintiff Gary Rhines has been complaining of back pains and shoulder problems on or about for two years. My back pains are worse than the shoulder, so I stopped complaining of the shoulder problems and kept reporting the more serious problem which is the plaintiff's back. The plaintiff like to state for the record that the defendant

has given the plaintiff medical treatment. The plaintiff has followed all the requirements set out by his PA, Physical Therapist, Orthopedic surgeon, Warden Captain S. Spaulding, Ian Connors, Administrator National Inmate Appeals and M.D. Carvajal, regional Director, in accordance with program statement 6031.04, Patient Care. The plaintiff's issue is after completing all the requirements by the above medical professionals, the plaintiff went back to sick-call explaining that the medicine does not stop the pain, physical therapy does not stop the pain, exercises for the back does not work, I explained to my PA Beth Zalno, physical therapist, orthopedic surgeon, Warden Capt. S. Spaulding, Ian Connors, M.D. Carvajal, HSA MR. Parkin, Dr. Cullen that all the treatment has failed and I requested an MRI to determine what is causing the pain. Plaintiff has been denied at all levels for MRI, and now everytime I report to sick-call PA Zalno says her hands are tied and she can't do anything for me, that she did all she could do and that I was denied an MRI for clinical reasons. PA Zalno also had a follow up with in-house Dr. Cullen and she state if Dr. Cullen thought that I needed an MRI on my back he would of requested an MRI. Plaintiff had his yearly follow up with in house Dr. Cullen and plaintiff complained of his back issue and requested of Dr. Cullen that he needed an MRI. Plaintiff brought to the doctor's attention that an MRI was denied at all levels when requested. Question? How does the plaintiff receive an MRI when he followed all the requirements rules and Policy under Patient Care Act, and followed all rules by the parties named in this Civil Complaint? Plaintiff likes to state that all the medicine, exercises, loss of weight, therapy, etc.

has not changed the condition of his back pains, and plaintiff is being denied further treatment to determine what is causing the pain. The plaintiff has followed all the rules and requirements as ordered. Plaintiff also was fasting the month of Ramadan for about 29 days and lossed about 15 to 20 pounds. Plaintiff still has the pains. Ramadan was from June 14, 2018 to July 12, 2018. Medical Dept. is continuing to make plaintiff receive and do treatment that is not solving his back pain.

M E D I C A L T I M E L I N E

- (1) On July 29, 2016, I reported to Sick Call and complained of neck and back pains. I was submitted to see an orthopedic surgeon.
- (2) On August 23, 2016, I was seen by orthopedic surgeon and I and I stressed my back and neck problems. I was given pain medication and the doctor wrote his report for me to follow.
- (3) On September 16, 2016, I requested for an MRI about my shoulders, neck and back where I complained about pain in these areas.
- (4) On December 22, 2016 I reported to Sick Call and complained about pain in the neck, shoulders and back.
- (5) On January 5, 2017 I complained to PA Zalno about neck, back and shoulder pains.
- (6) On January 9, 2017 I reported my neck, back and shoulder pains to AHSA in the Dining Hall.
- (7) On January 23, 2017 PA visit, I reported neck, shoulders and back pains.
- (8) On March 29, 2017 I reported to Sick Call and complained about neck, back and shoulder pains.
- (9) On April 18, 2017 I went to see orthopedic surgeon and complained neck, back and shoulder pains.
- (10) On May 1, 2017 I reported to Sick Call and complained of neck, back and shoulder pains.
- (11) On July 10, 2017 I reported to Sick Call and complained of back pains.
- (12) On September 28, 2017 I complained about back problems and pain on the same day. A specialty procedure was submitted for an MRI by Beth Zalno (PA). It was disapproved on 10/5/17.

- (13) On October 17, 2017 I received a visit from the therapist and received exercises on paper to carry out.
- (14) I saw the therapist on November 8, 2017 and an MRI was ordered for back pains.
- (15) On December 12, 2017 I report to Sick Call and request MRI for back pains.
- (16) On December 15, 2017 I report to Sick Call and complain of back pains.
- (17) On January 25, 2018 I sign up for Sick Call and report about my back pains.
- (18) On March 1, 2018 I sign up for Sick Call and complain of back pains.
- (19) On March 6, 2018 I was seen by in house doctor and I complained of back issues and asked him can he check why my MRI was denied. He said he will look into it. I have never heard anything from him on this matter till this day.
- (20) On 6-24-18 around 12pm, to 12:20pm, a chair in education Dept. broke while I was sitting on it and I fell and hurt my back. School teacher Mr. McMullen sent plaintiff to medical and the pharmacist , gave plaintiff stretching exercises. I asked him should I see the PA, he said no its just some tightness from falling. Also, teacher McMullen was a witness to my fall.
- (21) Report to sick-call on 7-20-18, seen by PA Zalno, plaintiff requested an MRI, Ms. Zalno stated she is not putting in another request for MRI and she had a follow up meeting with in-house Dr. Cullen and he stated to her he does not see that plaintiff needs an MRI.

DENIAL OF DUE PROCESS

1. On 10-10-18 plaintiff submitted informal resolution request about back pains and requested MRI on 10-11-18. Counselor Segraves returned with the response from my BP-8 and my MRI was denied. Also the recommendations from Dr. Ball's was for MRI so that he can if I need a spinal doctor.

2. On 10-12-18 plaintiff submitted administration remedy about back pains and requested an MRI on 10-20-17. Captain S. Spaulding former Warden agreed with the finding and answers from BP-8 and denied my BP-9.

3. On 10-26-17 plaintiff submitted to Regional Administrative remedy appeal, plaintiff complained and requested an MRI so there can be a determination as to where the pain in his back. On December 6, 2017 Regional Director M.D. Carvajal denied appeal.

4. On 12-15-2017 plaintiff submitted to Central Office an Administrative remedy appeal, requesting an MRI for his back. On 2-2-18 Ian Connors, Administrative National Inmate appeals, denied the request. Above, plaintiff excersised all administrative procedures.

DENIAL OF MEDICAL CARE

Plaintiff likes to make clear that Medical has treated plaintiff once the plaintiff followed all the requirements, and orders of medical staff and personel named in this Civil matter. Plaintiff made it clear on mane dates and times when he reported to sick-call to his PA, orthopedic surgeon, AHSA Parkin, therapist and to all

parties at the Administrative remedy levels, BP-8, BP-9, BP-10, and BP-11, that the treatment is not working. On September 28, 2017 I complained about back problems and pain on the same day, a specialty procedurte was submitted for an MRI bt Beth Zalno (PA). It was disapproved on 10-5-17. On 7-20-18 I reported to sick call requesting of PA:Zalono to re-submit the specialty procedure for an MRI. She said she will not and her hands are tied and she did all she could do on her level. Medical Dept. is continuing to make plaintiff receive and do treatment that is not solving his back pain.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

The plaintiff has exhausted his administrative remedies with respect to all claims and all defendants, by filing BP-8, BP-9, BP-10, BP-11. Federal Tort Claim Act (FTCA) 28 U.S.C. § 2672 delegated by 28.C.F.R. § 543.30, Administrative claim no. TRT-NER-2019-04820. See Ex's Attached to complaint

CLAIMS FOR RELIEF

The action of all defendants in this civil mater who denied plaintiff MRI after he brought to their attention that the current treatment is not working, constitutes deliberate indifference to plaintiff serious medical needs in violation of the Eighth Amendment to the United States Constitution and defendants were negligent for intentional actions of prison offciials; injuries caused by unintentional (negligent)actions or omissions by prison official. Staff actions also violate 28 U.S.C. §1346(b)

RELIEF REQUESTED

WHEREFORE, plaintiff requests that the court grant the following relief:

A. Issue a declaratory judgement stating that:

1. The delay or denial of plaintiff's medical care by defendnts Beth Zalno, Thomas Cullen, Dr. Ball, AHSA Parkin, Ian Connors, M.D. Carvajal, Capt. S. Spaulding, violatyed the plaintiff's rights under the Eighth Amendment to the United States Constitution and negligence under FTCA.

2. Defendant's Cullen, Ball, Ian Connors, Carvajal, Spaulding failure to take action to curb the physical pain or denial or delay of medical care of a prisoner violated the plaintiff's rights under the Eighth Amendment to the United States Constitution and consti-tuted negligence under FTCA.

3. Defendants Spaulding, M.D. Carvajal, Connors, denial of plaintiff's administrative remedies violated the plaintiff's rights under the Due Process clause of the Fourteenth Amendment to the United States Constitution.

4. Defendants Cullen, Ball, Ian Connors, Carvajal, Spaulding, Zalno, Parkins. actions in failing to provide adequate medical care for the plaintiff violated and continues to violate the plaintiff's rights under the Eighth Amendment to the United States Constitution.

B. Issue an injunction ardering defendants Cullen, Ball, Connors, Carvajal, Warden , Zalno, or their agents to :

1. Immediately arrange for the plaintiff to receive an MRI on his back by a qualified physician.

2. Immediately arrange for the plaintiff's need for a back specialist, order a follow up medical treatment to be evaluated by medical practitioner with expertise in the treatment and restoration and function of back pains. and;

3. Carry out without delay the treatment directed by such medical practitioners.

C. Issues an injunction ordering defendants named in civil complaint to:

1. Order defendants to order Post surgery MRI for plaintiff if plaintiff ever receives surgery on his back.

D. Award compensatory damages in the following amounts:

1. \$100,000 jointly and severally against defendants Cullen, Dr. Ball, Zalno, Parkin for the physical and emotional injuries sustained as a result of the plaintiff's delay and denial of adequate medical care.

2. \$10,000 jointly and severally against defendants Spaulding, M.D. Carvalho, Connors for the punishment, including deprivation of liberty and amenity, and emotional injury resulting from their denial of due process in connection with the plaintiff's administrative remedies proceedings.

3. \$50,000 jointly and severally against defendants Zalno, Dr. Ball, Dr. Cullen, Parkin for the physical and emotional injury resulting from their failure to provide adequate medical care to the plaintiff.

E. Award punitive damages in the following amounts:

1. \$20.000 each against defendants. Dr. Cullen, Dr. Ball, Zalno, Parkin.

2. \$30.000 each against defendants Spaulding, M.D. Carvajal, Connors.

F. Grant such other relief as it may appear that the plaintiff is entitled.

Dated: 5/18/20

Respectfully submitted

Gary Rhines
GARY Rhines DE6737
Pro-SE
SEI Coal Township
1 Kelley Drive
Coal Township PA 17866

I have read the foregoing Complaint and hereby verify that the matters alleged therein are true, except as to matters alleged on information and belief, and, as to those, I believe them to be true. I certify under penalty of perjury that the foregoing is true and correct.

Dated: 5/18/20

Gary Rhines
SEI Coal Town
1 Kelley Drive
Coal Township PA 17866

CERTIFICATE OF SERVICE

I, Gary Rhines, hereby certify that I have served a true and correct copy of the foregoing: Federal Tort Claim Act

Complaint
pursuant FTCA

Which is deemed filed at the time it was delivered to prison authorities for forwarding to the court, Houston vs. Lack, 101 L.Ed.2d 245 (1988), upon the court and parties to litigation and/or his/her attorney(s) of record, by placing same in a sealed, postage prepaid envelope addressed to:

Clerk of Court
235 N. Washington Ave
Scranton PA 18501

and deposited same in the United States Postal Mail at the United States Penitentiary,

Signed on this 15 day of May, 2020

Respectfully Submitted,

Gary Rhines
DE 6737

Exhibits A

Federal Tort claim Act

delegated by 28 C.F.R. § 543.30



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

COPY

U.S. Custom House
2nd & Chestnut Streets - 7th Floor
Philadelphia, PA 19106

June 19, 2019

Gary Rhines, Reg. No. 10496-067
FCI Allenwood
P.O. Box 2000
Allenwood, PA 17887

Re: Administrative Claim Received June 10, 2019
Claim No. TRT-NER-2019-04820

Dear Mr. Rhines:

This will acknowledge receipt of your administrative claim for an alleged loss of personal property or personal injury suffered at FCI Allenwood.

Under the provisions of the applicable federal statutes, we have **six months from the date of receipt** to review, consider, and adjudicate your claim.

All correspondence regarding this claim should be addressed to Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Street, Philadelphia, Pennsylvania 19106. If the circumstances surrounding this claim change in any fashion, you should contact this office immediately. Also, should your address change, you should contact this office in writing accordingly.

Sincerely,

A handwritten signature in dark ink, appearing to read "D. Howard", is placed above the typed name.

Darrin Howard
Regional Counsel

| CLAIM FOR DAMAGE, INJURY, OR DEATH | | INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions. | | FORM APPROVED OMB NO. 1105-0008 | |
|--|-----------------------------------|---|---|---------------------------------------|--|
| 1. Submit To Appropriate Federal Agency: Northwest Regional Director, RM 701 Federal Bureau of Prisons U.S. Customs House, 2nd and Chestnut St Philadelphia, PA 19106 7th Floor | | 2. Name, Address of claimant and claimant's personal representative, if any. (See instructions on reverse.) (Number, Street, City, State and Zip Code) GRABY Rhines # 10496-067 FBI Allenwood P.O. Box 2800 White Deer PA 17887 | | | |
| 3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input checked="" type="checkbox"/> CIVILIAN | 4. DATE OF BIRTH 10/10/72 | 5. MARITAL STATUS Single | 6. DATE AND DAY OF ACCIDENT July 29, 2016 up to date | 7. TIME (A.M. OR P.M.) 7:30 AM | |
| 8. Basis of Claim (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary.) This is a civil rights action for alleging medical staff acted negligently to serious medical needs. Recommendation was made by contractor out Doctor and contractor Therapist and these Recommendation was disregarded and I was Denied MDT. <i>see Attachment on next page</i> | | | | | |
| 9. PROPERTY DAMAGE NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code) N/A | | | | | |
| BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. (See instructions on reverse side.) N/A | | | | | |
| 10. PERSONAL INJURY/WRONGFUL DEATH STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE NAME OF INJURED PERSON OR DECEDENT. Inmate is suffering back pain for over two years. Your injury may have come from sport, workout, or work related. | | | | | |
| 11. WITNESSES | | | | | |
| NAME | | ADDRESS (Number, Street, City, State, and Zip Code) | | | |
| Warden, supervising Dr. Bull Beth Zafra (PA) Mr. Perkins (attest) | | FBI Allenwood P.O. Box 2800 White Deer PA 17887 | | | |
| 12. (See instructions on reverse.) AMOUNT OF CLAIM (in dollars) | | | | | |
| 12a. PROPERTY DAMAGE N/A | 12b. PERSONAL INJURY \$800.000 | 12c. WRONGFUL DEATH N/A | 12d. TOTAL (Failure to specify may cause forfeiture of your rights.) \$800.000 | | |
| I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM | | | | | |
| 13a. SIGNATURE OF CLAIMANT (See instructions on reverse side.) <i>Day Rhines</i> | | 13b. Phone number of person signing form N/A | 14. DATE OF SIGNATURE 7/24/18 | | |
| CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM | | CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS | | | |
| The claimant is liable to the United States Government for the civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729.) | | Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.) | | | |

85-109

NSN 7540-00-004-4045

STANDARD FORM 95
PRESCRIBED BY DEPT. OF JUSTICE
28 CFR 14.2 DATE RECEIVED
FEDERAL BUREAU OF PRISONS
REGIONAL COUNSEL OFFICE

JUN 10 2019

NERO-PHILADELPHIA



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

COPY

Via Certified and Return Receipt Mail

U.S. Custom House-7th Floor
2nd & Chestnut Streets
Philadelphia, PA 19106

December 9, 2019

Mr. Gary Rhines, DE6737
SCI Coal Township
1 Kelley Drive
Coal Township, PA 17866

RE: Administrative Claim No. TRT-NER-2019-04820

Dear Mr. Rhines:

Your Administrative Claim No. TRT-NER-2019-04820, properly received on June 10, 2019, has been considered for settlement as provided by the Federal Tort Claims Act (FTCA), 28 U.S.C. § 2672, under authority delegated to me by 28 C.F.R. § 543.30. Damages are sought in the amount of \$800,000.00, for a personal injury claim. Specifically, you allege since July 29, 2016, FCI Allenwood staff have not provided you with adequate medical care from your back pain. You state you have not received a magnetic resonance imaging (MRI).

An investigation, including a review of your medical records, reflects you were housed at FCI Allenwood from April 11, 2013, through July 24, 2019. During that time, you were evaluated in Health Services on many occasions. Your pain management needs were addressed with an orthopedic treatment plan, physical therapy, weight loss management, and pain medications. There is no evidence you experienced a compensable injury as the result of negligence on the part of a Bureau of Prisons employee. Accordingly, your claim is denied.

If you are dissatisfied with this decision, you may bring an action against the United States in an appropriate United States District Court within six (6) months of the date of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Howard", is written over a horizontal line.

Darrin Howard
Regional Counsel

cc: Catricia L. Howard, Warden, FCI Allenwood

Exhibit B

Administrative Remedy Procedures

BP-8 - BP-9 - BP-10 - BP-11

Federal Correctional Institution
Allenwood, Pennsylvania

ADMINISTRATIVE REMEDY PROCEDURE FOR INMATES
INFORMAL RESOLUTION FORM

NOTE TO INMATE: You are advised that prior to receiving and filing a Request for Administrative Remedy Form BP-9 [BP-229(13)], you must ordinarily attempt to informally resolve your complaint through your Correctional Counselor. Briefly state ONE complaint below and list what efforts you have made to resolve your complaint informally and state the names of staff contacted.

Issued By: T.S. (Initials of Correctional Counselor)
Date Issued To the Inmate: 10-10-17

INMATE'S COMMENTS:

Complaint: I been complaining of back pain
and problems on or best Two years. I been to sick, I been on all
sports restriction, I been placed on pain medicine, Therapy exercises for
the back has been giving to me. I been submitted by PA zalno. for
MRI and UDC committee at this prison Denied my MRI. Dr Ball
about 3 or 4 weeks ago requested and MRI so he can forward the infor-
mation to spinal specialist the PA will not submit it. Delay getting
me And MRI is a delay in treatment

2. Efforts you have made to resolve: I been to sick cell
on 4/28/17 or 9/29/17

3. Names of staff you contacted: PA zalno / And nurse Bloom

Date Returned to Correctional Counselor: 10-10-17

Inmate's Signature San Phua

Reg. Number 10496-067

Date 10/10/17

CORRECTIONAL COUNSELOR'S COMMENTS:

1. Efforts made to informally resolve and staff contacted:

Date BP-9 Issued: _____

Correctional Counselor _____

Unit Manager (Date) _____

Distribution: If complaint is NOT informally resolved - Forward original attached to BP-9 Form to the Executive Assistant.

Rhines, Gary

Reg. No. 10496-067

Page 1

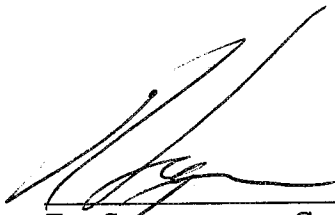
ADMINISTRATIVE REMEDY PROCEDURE FOR INMATES

INFORMAL RESOLUTION RESPONSE

This is in response to your Informal Resolution.

Per your Physician Assistant (PA), your EMG test was denied given you have not taken the basic steps of weight loss to address your back pain concerns. Additionally, your x-ray of your lumbar spine after you raised concerns of having back pain for over two years was completed on January 11, 2017, which resulted in typical findings for a 44 year old aged male. This report along with Dr. Ball's recommendations were reviewed by your PA and the physician and there is insufficient medical support to pursue an MRI at this time.

MRI tests require a high threshold of medical justification in order to be approved at the regional level. Simply put, you do not have that medical justification at this time. You are encouraged to discuss a weight loss program with your PA and we can re-evaluate this decision after the weight loss occurs.



T. Segraves, Counselor

10-11-17
Date

U.S. DEPARTMENT OF JUSTICE
Federal Bureau of Prisons

REQUEST FOR ADMINISTRATIVE REMEDY

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From: RHINES GARY 10496-067 2A FCI ALLENWOOD
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A- INMATE REQUEST

THIS IS AN appeal from BP-8 ON 10-11-17. Reason FOR appeal is Inmate Rhines is request a MRI FOR back pain I been complaining of this problem 2x years. The Medical is false reporting on my weight ISSUES ON 9/29/16 I WAS 257 LBS, 4/18/16 260 LBS, ON 1/5/17 272 LBS, ON 1/23/17 273, ON 7/10/17 258 LBS, ON 9/15/17 260 LBS, ON 9/24/17 264. I have addressed the weight issues ON 1/23/17 I WAS 273 then I drop to 258 by 7/10/17 keep in mind I been on medical restriction so my weight is going to go up and down. My weight at 264. because of dieting. Medical is Denying me further treatment to Determine where the pain is coming from on my back. Request a MRI on my back. 10/12/17 Request a MRI is my resolution. Gary Rhine

DATE 10/12/17 TO Determine where the pain is coming from

Part B- RESPONSE

See Attached

Rec'd 10/13/17

DATE

WARDEN OR REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

SECOND COPY: RETURN TO INMATE

CASE NUMBER: 918256-F1

CASE NUMBER: _____

Part C- RECEIPT

Return to: _____
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: _____

DATE



RECIPIENT'S SIGNATURE (STAFF MEMBER)

Rhines, Gary
Reg. No. 10496-067
Appeal No. 918256-F1

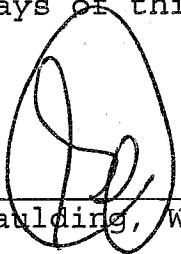
Part B - Response

This is in response to your request for administrative remedy received October 13, 2017, wherein you allege medical is denying you further treatment. As relief, you request to be provided with an MRI to further investigate a cause for your lower back pain.

A thorough review of your medical file was completed on October 17, 2017. Per your Physician Assistant (PA), your EMG test was denied given you have not taken the basic steps of weight loss to address your back pain concerns. Additionally, the x-ray of your lumbar spine was completed on January 11, 2017, which resulted in typical findings for a 44-year old male. Your PA and the physician reviewed this report, along with the orthopedic surgeon's recommendations, and there is insufficient medical support to pursue an MRI at this time.

MRI tests require a high threshold of medical justification in order to be approved at the regional level. You do not have that medical justification at this time. You are encouraged to discuss a weight loss program with your PA. We can re-evaluate this decision after the weight loss occurs. Although you may have lost some weight, it has been very sporadic with ups and downs.

Accordingly, this response to your request for administrative remedy is for informational purposes only. If you are not satisfied with this response, you may appeal to the Regional Director within 20 calendar days of this response.



CAPT S. Spaulding, Warden



Date

1-25
10-25

U.S. Department of Justice

Regional Administrative Remedy Appeal

Federal Bureau of Prisons

Type or use ball-point pen. If attachments are needed, submit four copies. One copy of the completed BP-229(13) including any attachments must be submitted with this appeal.

From: RHINES GARY 10496-067 24 Allenwood FCI
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A - REASON FOR APPEAL

~~If my BP-9 medical records were reviewed I should have been granted~~
 Medical care MRI. This is an appeal from BP-9. The Denial of my Medical Issue has not been investigated. I request an MRI because I ~~been~~ having back pains for two years I listed different dates my weight was taken on my BP-9 I was on 1/23/17 273 lbs on 7/10/17 I drop my weight to 258 lbs so I loss 15 pounds up to date my weight is in between 258 lbs to 262 lbs because of Medical Restriction. I been having pain on my back when my weight been up or down. I request an MRI to determine where the pain is coming from.
 10/26/17 I should not be denied treatment because of Medical budget issues
 DATE SIGNATURE OF REQUESTER Gary Rhines

Part B - RESPONSE

Received

DEC 11 2017

FCI Allenwood
Associate Warden's Office

DATE

If dissatisfied with this response, you may appeal to the General Counsel. Your appeal must be received in the General Counsel's Office within 30 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: 91825021

Part C - RECEIPT

CASE NUMBER: _____

Return to: _____

LAST NAME, FIRST, MIDDLE INITIAL

REG. NO.

UNIT

INSTITUTION

SUBJECT: _____

DATE

SIGNATURE, RECIPIENT OF REGIONAL APPEAL

RHINES, Gary

Reg. No. 10496-067

Appeal No. 918256-R1

Page One


Part B - Response

You appeal the response of the Warden at FCI Allenwood and contend you are not receiving appropriate medical treatment for chronic back pain. You claim you have lost weight as recommended, but you are still having pain. You request a Magnetic Resonance Imaging (MRI) scan to diagnose your condition.

A review of your appeal reveals the Warden adequately addressed your concerns in his response. According to your Bureau Electronic Medical Record (BEMR), you were evaluated by an Orthopedic surgeon on August 23, 2017. Your lumbar x-rays were reviewed, which revealed negative findings, and your physical examination revealed tenderness on your right side. An electromyography (EMG) and MRI scan were recommended; however, they were subsequently denied. Based on your medical assessments and Body Mass Index (BMI), conservative measures were recommended, including physical therapy and weight loss. On October 17, 2017, and November 8, 2017, you were evaluated by the Physical Therapist for chronic back pain. Therapy was unsuccessful, and an MRI scan was submitted for further evaluation. Your consultation is currently pending approval. You will be notified once a decision has been made. According to your medical record, you are being evaluated and treated in accordance with Program Statement 6031.04, Patient Care. Accordingly, your appeal is denied.

If you are dissatisfied with this response, you may appeal to the General Counsel, Federal Bureau of Prisons. Your appeal must be received in the Administrative Remedy Section, Office of General Counsel, Federal Bureau of Prisons, 320 First Street, N.W., Washington, D.C. 20534, within 30 calendar days of the date of this response.

Date: December 6, 2017



M.D. CARVAJAL
Regional Director

Received

DEC 11 2017

FCI Allenwood
Associate Warden's Office

Federal Bureau of Prisons

Type or use ball-point pen. If attachments are needed, submit four copies. One copy each of the completed BP-DIR-9 and BP-DIR-10, including any attachments must be submitted with this appeal.

From: Rhines GARY 10496-067 2A FBI Allenwood
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A—REASON FOR APPEAL

This is an appeal from BP-10 on Dec 11, 2017. Reason for this appeal is I was counsel by my P-A, Physical Therapist Orthopedic surgeon all Treatment was unsuccessful, My consultant for MRI was Denied on 12/7/17. I continue to suffer from back pain, After following all this rules under Program statement 6031.04, patient care rules I'm still having back pains. The only thing now that can help determine the pain is a MRI, Request for the central office to approved a MRI, so it can help determine why I'm having back pains.

12-15-2017

DATE

Gary Rhines
SIGNATURE OF REQUESTER

Part B—RESPONSE

RECEIVED

DEC 26 2017

Administrative Remedy Section
Federal Bureau of Prisons

DATE

GENERAL COUNSEL

ORIGINAL: RETURN TO INMATE

CASE NUMBER: 918256-A1

Part C—RECEIPT

CASE NUMBER: _____

Return to: _____
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: _____

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL

JSP LVN

BP-231(13)
APRIL 1982

Administrative Remedy No. 918256-A1

Part B - Response

This is in response to your Central Office Administrative Remedy Appeal wherein you allege all treatment regimens have been unsuccessful, yet you still were denied a consult for an MRI. You contend you continue to suffer from back pain after completing all the recommendations made by the guidelines of Program Statement 6031.04, Patient Care. For relief, you request an MRI to determine the cause of the pain.

We have reviewed documentation relevant to your appeal and, based on our findings, concur with the manner in which the Warden and Regional Director responded to your concerns at the time of your Request for Administrative Remedy and subsequent appeal. Our succeeding review reveals the consult submitted for an MRI was disapproved with recommendations to continue symptomatic treatment. Therefore, at this time, your clinician has found insufficient diagnostic data to make a clinical determination of the need for a MRI.


You should be aware Program Statement 6031.04, provides that the Clinical Director is under no obligation to follow consultant recommendations. If a specific intervention is not pursued, Health Services staff will provide continual monitoring and on-going treatment for your condition as necessary. If you are having issues, you need to request sick call for your complaints. Your primary care team will continue to make recommendations as needed. As recommendations are made, a course of treatment will be determined. Given this, we shall defer diagnostic testing and treatment interventions to the Health Services staff at the local level.

Based on this information, there is no evidence to substantiate your claim of being denied appropriate medical care.

The record reflects you have received medical care and treatment in accordance with evidence based standard of care and within the scope of services of the Federal Bureau of Prisons. You are encouraged to comply with proposed medical treatment so Health Services can continue to provide essential care and to contact medical personnel through routine sick call procedures should your condition change.

Considering the foregoing, your appeal is denied.

2/2/18
Date



Ian Connors, Administrator
National Inmate Appeals (16)

DEAR, Clerk of courts

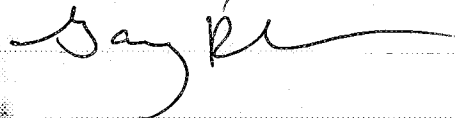
5/15/20

Enclosed is a copy of the Federal Tort claim Act I wish to file, Can you please send me a copy of the complaint and exhibits and affidavit Enclosed. These documents are my original and my only copy. Thank you

P.S

Plaintiff has an Bivens claim pending in federal court against the same parties under civil Action NO. 3:18-CV-01643 Honorable (Mannion)

Sincerely



SCI coal Township

1 Kelley Drive

coal Township Pa 17866

GARY RHINES DE6737
SCI coal Township
1 KELLEY DRIVE
coal Township PA 17866

RECEIVED
SCRANTON

MAY 20 2020

PER

DEPUTY CLERK

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